

ILLEG

Executive Registry

10-2947 LEG  
ILLEG

EYES ONLY

MEMORANDUM FOR: Director of Central Intelligence  
SUBJECT: Analysis of paper entitled "Partial Criteria to Govern Covert Operations.

You asked for comments on the attached paper (Tab A) which was, I understand, prepared by an unidentified author in the Department of State for consideration by Governor Hertler. I have restricted consideration of it to the Chief of the PP Staff and myself and offer the attached analysis (Tab B) for your personal consideration as an internal CIA document and not as a proposed reply to Mr. Hertler. It will be clear to you that we have taken the wording of NSC 5412/2 absolutely literally. This, inevitably, raises an issue in almost black and white terms. For our guidance, I would like your decision as to whether the comments in Tab B fit your interpretation of the charter for covert operations and whether they constitute, in general, a position that you believe should be maintained. I realize, of course, that adherence to this position need not involve such a blunt statement of the issues but I would appreciate your specific ruling on the matter at this time in order to guide our handling of the various liaison relations involved.

(Signed) Richard Helms

Richard Helms  
Acting Deputy Director (Plans)

Attachments:

1. Tab A. (orig only)
2. Tab B.

cc: DDCI

EYES ONLY

Attn  
erry Jr



15 October 1958

COMMENTS ON A PAPER ENTITLED "PARTIAL CRITERIA  
TO GOVERN COVERT OPERATIONS"

1. The logic in this paper can be faulted. As a consequence, the writing is loose and imprecise. Despite these inadequacies, it contains an expression of concern about the implications for our Government of covert operations and an insistence that strict criteria be established for their regulation. The very expression of this concern demands our attention.
2. The criticism of covert operations is not based on moral considerations about the validity of means towards ends, nor is it attributed to a desire to preserve departmental jurisdictions. It is based on the pragmatic consideration that covert operations will not work (because Americans cannot really do such things very well and the operations will not be really covert) and the consequent risk is, therefore, out of proportion to the gain.
3. The suggested criteria are, in general, reasonable statements of the care that must be exercised in anything so sensitive as the initiation and the conduct of covert operations. Where this paper goes wrong is in its concept of the assignment of charter functions within our Government and its placement of the responsibility for the application of criteria. The paper states that "the primary responsibility for such

weighing must rest with the State Department." This is a tenable preposition; it could be argued that the responsibility should be with the Department of State -- but that is not the assignment of function that has been approved by the President and the National Security Council. NSC 5412/2 clearly places the responsibility for covert operations upon the Director of Central Intelligence. The Director must ensure that operations are consistent with Government policy, but the responsibility for so ensuring remains his. To assist him in making these responsible determinations, he has been provided with the 5412 Designated Representatives, namely, the Under Secretary of State, the Deputy Secretary of Defense, and the President's Special Assistant on National Security Affairs. These Designated Representatives together provide a committee for the approval of major programs by confirming to the Director that his proposed courses of action are consistent with Government policy.

4. Nowhere in NSC 5412 and associated papers does it specify that the Department of State has the responsibility for ensuring that covert operations are consistent with policy or for providing an approval system. The author of this paper, in stating that it is "essential that the machinery in the Department for the review of covert operations be employed frankly, strictly, and thoroughly," seems to imply that the machinery in the Department reviews covert operations in the sense

of approving or disapproving them. The machinery in the Department, i. e., the Reams' Office and the contacts with geographic bureaus, is not an approving mechanism and, apart from the Under Secretary's personal role as a Designated Representative, the Department does not have the function of allowing or vetoing operations. The role of the Department of State is to provide policy information and guidance and not approval or disapproval. The responsibility for review in the sense of approval or disapproval remains with the Director of Central Intelligence with, however, a clear understanding that his review will be based upon the policy information and guidance provided by the executive agencies of the Government and particularly by the Department of State.

5. In fine, the paper proceeds from some inexact assumptions through some fairly worth-while criteria to a conclusion which is based on an apparent misinterpretation of the assignment of charter functions within the Government.

6. POSTSCRIPT

It is the precise wording of NSC 5412/2 which allows the above interpretation. Any full discussion of this subject should probably take into consideration the intent of the President of the United States as expressed in another context. At the time of issuance of Reorganization

Plan No. 8 establishing the United States Information Agency, the President directed a letter on June 1, 1953 to the Heads of All Executive Departments. This letter contained the following language:

"The over-all foreign affairs reorganization which I desire to achieve is designed to emphasize the primary position of the Secretary of State within the executive branch in matters of foreign policy. I personally wish to emphasize that I shall regard the Secretary of State as the Cabinet officer responsible for advising and assisting me in the formulation and control of foreign policy. It will be my practice to employ the Secretary of State as my channel of authority within the executive branch on foreign policy. Other officials of the executive branch will work with and through the Secretary of State on matters of foreign policy."

It is true that NSC 5412/2 was approved at a date later than the 1953 letter and the presumption may be made that the drafters of NSC 5412/2 took into consideration the position of the President expressed in the letter of the previous year. It is also pertinent that the reorganization plans and directives of 1953 concern overt foreign operations and only NSC 5412/2 deals specifically with covert foreign operations. The conclusion seems inescapable that NSC 5412/2 is meant to be taken literally i. e. that the responsibility for the regulation of covert operations rests with the Director of Central Intelligence. It is his conduct of agency operations and his maintenance of liaison with the Secretary and Department of State that ensures the compatibility of covert operations with foreign policy. That this arrangement has worked satisfactorily in actual practice is an indication that the present assign-

ment of responsibility is appropriate and that the concern expressed in the Tab A paper and the recommendations of criteria should be taken as guidance suggestions and should not imply any alteration of responsibility.